

Project 1012 - Proposed

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Regulations Relating to Bail Enforcement Agents

CHAPTER 260

REGULATIONS RELATING TO BAIL ENFORCEMENT AGENTS

Part I

Definitions

6VAC20-260-10. Definitions.

The following words and terms when used in this regulation shall have the following meanings unless the context clearly indicates otherwise:

"Armed" means a bail enforcement agent who carries or has immediate access to a firearm in the performance of his duties.

"Bail bondsman" means any person who is licensed by the department who engages in the business of bail bonding and is thereby authorized to conduct business in all courts of the Commonwealth.

"Bail enforcement agent," also known as "bounty hunter," means any individual engaged in bail recovery.

"Bail recovery" means an act whereby a person arrests a bailee with the object of surrendering the bailee to the appropriate court, jail, or police department for the purpose of discharging the bailee's surety from liability on his bond. Bail recovery shall include investigating, surveilling or locating a bailee in preparation for an imminent arrest, with such object and for such purpose.

"Bailee" means a person who has been released on bail and who is or has been subject to a bond as defined in § 19.2-119 of the Code of Virginia.

"Board" means the Criminal Justice Services Board or any successor board or agency.

"Department" or "DCJS" means the Department of Criminal Justice Services or any successor agency.

"Firearms endorsement" means a method of regulation that identifies a person licensed as a bail enforcement agent who has successfully completed the annual firearms training and has met the requirements as set forth in this regulation.

"On duty" means the time during which bail enforcement agents receive or are entitled to receive compensation for employment for which licensure is required.

"Private security services training school" means a training school that is certified or licensed by the department for the specific purpose of training regulated personnel in at least one category of the compulsory minimum training standards.

Part II

Fees

6VAC20-260-20. Fees.

A. Schedule of fees. The following fees reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing and other administrative requests for services relating to bail enforcement services:

<u>Categories</u>	<u>Fees</u>
<u>Initial bail enforcement agent license</u>	<u>\$200</u>
<u>Bail enforcement agent license renewal (biannually)</u>	<u>\$200</u>
<u>Firearms endorsement (annually)</u>	<u>\$30</u>
<u>Fingerprint card processing (biannually)</u>	<u>\$50</u>

<u>Replacement photo identification</u>	<u>\$30</u>
<u>Partial training exemption</u>	<u>\$25</u>
<u>In-service alternative training credit</u>	<u>\$25</u>

B. Reinstatement fee.

1. The department shall collect a reinstatement fee for license renewal applications not received on or before the expiration date of the expiring license.

2. The reinstatement fee shall be 50% above and beyond the renewal fee of the license or any other credential issued by the department wherein a fee is established and renewal is required.

C. Dishonor of fee payment due to nonsufficient funds.

1. The department may suspend the license it has granted any person who submits a check or similar instrument for payment of a fee required by statute or regulation that is not honored by the financial institution upon which the check or similar instrument is drawn.

2. The suspension shall become effective upon receipt of written notice of the dishonored payment. Upon notification of the suspension, the licensee may request that the suspended license or authority be reinstated, provided payment of the dishonored amount plus any penalties or fees required under the statute or regulation accompanies the request. Suspension under this provision shall be exempt from the Administrative Process Act.

Part III

Licensing Procedures and Requirements

6VAC20-260-30. Bail enforcement agent eligibility.

A. Persons required to be licensed pursuant to subdivision 47 of § 9.1-102 of the Code of Virginia as a bail enforcement agent shall meet all licensure requirements in this section. Persons who carry or have access to a firearm while on duty must have a valid license with a firearms endorsement as described under 6VAC20-260-80. If carrying a handgun concealed, the person must also have a valid concealed handgun permit and the written permission of his employer pursuant to § 18.2-308 of the Code of Virginia.

B. Each person applying for a bail enforcement agent license shall meet the minimum requirements for eligibility as follows:

1. Be a minimum of 21 years of age;
2. Be a United States citizen or legal resident alien of the United States;
3. Have received a high school diploma or GED; and
4. Have successfully completed all initial training requirements, including firearms endorsement if applicable, requested pursuant to the compulsory minimum training standards in Part IV (6 VAC 20-260-120 et seq.) of this regulation.

C. The following persons are not eligible for licensure as a bail enforcement agent and may not be employed by or serve as agents for a bail enforcement agent:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored.

2. Persons who have been convicted of any misdemeanor within the Commonwealth, any other state, or the United States within the preceding five years. This prohibition may be waived by the department, for good cause shown, so long as the conviction was not for one of the following or a substantially similar misdemeanor: carrying a concealed weapon, assault and battery, sexual battery, a drug offense, driving under the influence, discharging a firearm, a sex offense, or larceny.

3. Persons who have been convicted of any misdemeanor within the Commonwealth, any other state, or the United States, that is substantially similar to the following: brandishing a firearm or stalking. The department may not waive the prohibitions under this subdivision.

4. Persons currently the subject of a protective order within the Commonwealth or another state.

5. Employees of a local or regional jail.

6. Employees of a sheriff's office or a state or local police department.

7. Commonwealth's attorneys and any employees of their offices.

8. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency.

D. The exclusions in subsection C of this section shall not be construed to prohibit law enforcement from accompanying a bail enforcement agent when he engages in bail recovery.

6VAC20-260-40. Initial bail enforcement agent license application.

Prior to the issuance of any bail enforcement agent license, each agent applicant shall:

1. File with the department a completed application for such license on the form and in the manner provided by the department;
2. Provide the address of a physical location in Virginia where records required to be maintained pursuant to 6VAC20-260-230 are kept and available for inspection by the department. A post office box is not a physical location;
3. Successfully complete entry-level training, and firearms training if applicable, pursuant to the compulsory minimum training standards set forth under Part IV (6VAC20-260-120 et seq.) of this regulation;
4. Submit fingerprints to the department pursuant to 6VAC20-260-50; and
5. Submit the appropriate nonrefundable application processing fee to the department.

6VAC20-260-50. Fingerprint processing.

A. Each person applying for licensure as a bail enforcement agent shall submit to the department:

1. One completed fingerprint card provided by the department or another electronic method approved by the department;
2. A fingerprint processing application;
3. The applicable nonrefundable fee; and
4. All criminal history conviction information on a form provided by the department.

B. The department shall submit those fingerprints to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National Criminal Records search to determine whether the person or persons has a record of conviction.

C. Fingerprint cards found to be unclassifiable will suspend action on the application pending the resubmittal of a classifiable fingerprint card. The applicant shall be so notified in writing and shall submit a new fingerprint card within 30 days before the processing of his application shall resume. After 30 days, the initial fingerprint application process will be required to include applicable application fees.

D. If the applicant is denied by DCJS, the department will notify the applicant by letter regarding the reasons for the denial.

6VAC20-260-60. Application sanctions/denial, probation, suspension and revocation.

A. The department may deny a license in which any person has been convicted in any jurisdiction of any felony. Any plea of nolo contendere shall be considered a conviction for the purposes of this regulation. The record of a conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction.

B. The department may deny a license in which any person (i) has not maintained good standing in every jurisdiction where licensed; (ii) has had his license denied upon initial application, suspended, revoked, surrendered, or not renewed; or (iii) has otherwise been disciplined in connection with a disciplinary action prior to applying for licensing in Virginia.

C. Any false or misleading statement on any state application or supporting documentation is grounds for denial or revocation and may be subject to criminal prosecution.

D. The department may deny licensure to a person for other just cause.

E. A licensee shall be subject to disciplinary action for violations or noncompliance with the Code of Virginia or this regulation. Disciplinary action shall be in accordance with procedures prescribed by the Administrative Process Act. The disciplinary action may include but is not limited to a letter of censure, fine, probation, suspension or revocation.

6VAC20-260-70. License issuance.

A. Upon completion of the initial license application requirements, the department may issue an initial license for a period not to exceed 24 months.

B. Each license shall be issued to the applicant named on the application and shall be valid only for the person named on the license. No license shall be assigned or otherwise transferred to another person.

C. Each licensee shall comply with all applicable administrative requirements and standards of conduct and shall not engage in any acts prohibited by applicable sections of the Code of Virginia and this regulation.

D. At the discretion of the department, a temporary license may be issued for a 30-day period while awaiting the results of the applicant's criminal history records search based on extenuating circumstances.

6VAC20-260-80. Firearms endorsement.

A. In addition to applying for a bail enforcement agent license, each applicant who carries or has access to a firearm while on duty must apply for such endorsement on a form and in the manner prescribed by the board and containing any information the board requires.

B. Prior to the issuance of a firearms endorsement, each applicant shall:

1. Successfully complete the entry-level firearms training pursuant to the compulsory minimum training standards as set forth in Part IV (6VAC20-260-120 et seq.) of this regulation; and
2. Submit the appropriate nonrefundable application processing fee to the department.

C. Upon completion of the application requirements, the department may issue a firearms endorsement for a period not to exceed 12 months.

D. Firearms endorsements may be reissued for a period not to exceed a period of 12 months when the applicant has met the following requirements:

1. Filed with the department a completed application for such endorsement on the form and in the manner provided by the department at least 30 days prior to expiration of the current endorsement;
2. Successfully completed the firearms retraining, pursuant to the compulsory minimum training standards set forth under Part IV (6VAC20-260-120 et seq.) of this regulation; and
3. Submitted the appropriate nonrefundable application processing fee to the department.

6VAC20-260-90. License renewal application.

A. The department should receive applications for licensure renewal at least 30 days prior to expiration. The department will provide a renewal notification to the last known mailing address of the licensed person. However, if a renewal notification is not received by the person, it is the responsibility of the person to ensure renewal requirements are filed with the department. License renewal applications must be received by the department and all license requirements must be completed prior to the expiration date or shall be subject to all applicable, nonrefundable renewal fees plus reinstatement fees. Outstanding fees or monetary penalties owed to DCJS must be paid prior to issuance of a renewal.

B. Each person applying for license renewal shall meet the minimum requirements for eligibility as follows:

1. Successfully complete the in-service training, and firearms retraining if applicable, pursuant to the compulsory minimum training standards set forth under Part IV (6VAC20-260-120 et seq.) of this regulation;
2. Be in good standing in every jurisdiction where licensed. This subdivision shall not apply to any probationary periods during which the person is eligible to operate under the license; and
3. Maintain eligibility pursuant to 6VAC20-260-30 B.

C. The department may renew a license when the department receives the following:

1. A properly completed renewal application provided by the department;
2. Fingerprint cards submitted pursuant to 6VAC20-260-50;
3. The applicable, nonrefundable license renewal fee; and

4. Proof of successful completion of the in-service training, pursuant to the compulsory minimum training standards set forth under Part IV (6VAC20-260-120 et seq.) of this regulation.

D. Upon completion of the renewal license application requirements, the department may issue a license for a period not to exceed 24 months.

E. Any renewal application received after the expiration date of a license shall be subject to the requirements set forth by the reinstatement provisions of this chapter.

6VAC20-260-100. Replacement state-issued identification.

A licensed person seeking a replacement state-issued photo identification shall submit to the department:

1. A properly completed application provided by the department; and
2. The applicable, nonrefundable application fee.

6VAC20-260-110. Reinstatement.

A. A bail enforcement agent license not renewed on or before the expiration date shall become null and void. Pursuant to the Code of Virginia, all such persons must currently be licensed with the department to provide bail enforcement agent services.

B. A renewal application must be received by the department within 60 days following the expiration date of the license in order to be reinstated by the department, providing all renewal requirements have been met. Prior to reinstatement, the following shall be submitted to the department:

1. The appropriate renewal application and completion of renewal requirements, including required training pursuant to this chapter; and

2. The applicable, nonrefundable reinstatement fee pursuant to this chapter and in accordance with 6VAC20-260-20 B.

The department shall not reinstate renewal applications received after the 60-day reinstatement period has expired. It is unlawful to operate without a valid license including during a reinstatement period.

C. No license shall be renewed or reinstated when all renewal application requirements are received by the department more than 60 days following the expiration date of the license. After that date, the applicant shall meet all initial application requirements, including applicable training requirements.

D. Following submittal of all reinstatement requirements, the department will process and may approve any application for reinstatement pursuant to the renewal process for the application.

Part IV

Compulsory Minimum Training Standards for Bail Enforcement Agents

Article 1

Training Requirements

6VAC20-260-120. Entry-level training.

A. Each bail enforcement agent as defined by § 9.1-186 of the Code of Virginia must meet the compulsory minimum training standards established in this part unless provided for otherwise in accordance with this regulation.

B. Training will be credited only if application for licensure is submitted to the department within 12 months of completion of training.

C. The compulsory minimum entry-level training hour requirement by category, excluding examinations, practical exercises and range qualification, shall be:

1. Bail Enforcement Core Training -- 40 hours.

2. Firearms Training -- 14 hours.

D. The compulsory minimum entry-level training course content, excluding examinations, mandated practical exercises and range qualification, shall be as provided in this subsection.

Core subjects. The entry-level curriculum sets forth the following areas identified as:

I. Orientation: ethics -- 2 hours

A. Ethics

1. Professionalism

2. Conflict of Interest

3. Code of Ethics

II. Law: Code of Virginia and Regulations; basic law; courts; and bail enforcement -- 12 hours + 1 practical exercise

A. Code of Virginia and Regulations

1. Definitions

2. Licensing Procedures and Requirements

3. Compulsory Minimum Training Standards

4. Standards of Practice and Prohibited Acts

5. Administrative Requirements/Standards of Conduct

6. Administrative Reviews, Complaints, Procedures

B. Basic Law

1. Legal Terminology and Definitions

2. Purpose and Function of Law

3. U.S. Constitution

a. Bill of Rights

b. Amendments

4. Code of Virginia

a. Bail Bonding Laws

b. Laws of Arrest

5. Landmark Cases

a. Taylor v. Taintor

b. Old Fugitive Slave Laws

6. Virginia Cases

7. Limitations and Liabilities

C. Courts

1. Federal Court System

a. Criminal

b. Civil

2. State Court System

a. Criminal

b. Civil

D. Bail Enforcement

1. Right to Arrest
2. Search and Seizure
3. Uniform Extradition Act
4. Virginia Extradition Procedures
5. Legal and Criminal Forms

III. Fugitive Recovery: investigative techniques; recovery procedures; agent survival; and apprehension of a fugitive -- 24 hours + 1 practical exercise

A. Investigative Techniques

1. Surveillance
2. Court Research
3. Law Enforcement Coordination
4. Interviewing
5. Impersonation and Misrepresentation
6. Reference Materials and Resource List
7. Skip Tracing Techniques
8. Fugitive Identification

B. Recovery Procedures

1. Pursuit
 - a. Foot
 - b. Vehicular

c. Other

2. Entry and Search

3. Perimeter/Interior Room Control

C. Agent Survival

1. Confrontation Management

2. Use of Force

3. Deadly Force

4. Escalation of Force

5. Emergency Procedures

D. Apprehension of a Fugitive

1. Compliant versus Noncompliant Procedures

2. Search of Person

a. Personal Items

b. Seizure of Contraband

3. Handcuffing Techniques

4. Rights of the Accused

5. Detainment and Transportation

6. Interstate Transport

7. False Arrest

IV. Remanding to Custody: legal detainment facilities; entering the jail or sally port; signing the bail piece/return to court; and hospital procedures for injuries -- 2 hours + 1 practical exercise

A. Legal Detainment Facilities

B. Entering the Jail or Sally Port

C. Signing the Bail Piece/Return to Court

D. Hospital Procedures for Injuries

V. Written Comprehensive Examination.

6VAC20-260-130. In-service training.

A. Each person licensed with the department as a bail enforcement agent shall complete the compulsory in-service training standards within the last 12 months preceding the expiration date of licensure.

B. The compulsory minimum in-service training course content by category, excluding examinations, practical exercises and range qualification, shall be as follows:

Bail enforcement core subjects:

1. Legal authority -- 2 hours

2. Job-related training -- 6 hours

Total hours -- 8 hours

6VAC20-260-140. Training exemption.

Persons who meet the statutory requirements as set forth in § 9.1-186 of the Code of Virginia may apply for a partial exemption from the compulsory training standards. Individuals requesting such partial exemption shall file an application furnished by the

department and include the applicable, nonrefundable application fee. The department may issue such partial exemption on the basis of individual qualifications as supported by required documentation. Those applying for and receiving exemptions must comply with all regulations promulgated by the board. Each person receiving a partial exemption must apply to the department for registration within 12 months from the date of issuance; otherwise the partial exemption shall become null and void.

6VAC20-260-150. Entry-level training exemption.

A. Persons previously employed as law-enforcement officers for a local, state or federal government who have not terminated or been terminated from the employment more than five years prior to the application date must submit official documentation of the following with the application for partial exemption of the entry-level training requirements:

1. Completion of law-enforcement entry-level training; and
2. Five continuous years of law-enforcement employment, provided such employment as a law-enforcement officer was not terminated due to misconduct or incompetence.

B. Persons having previous bail enforcement agent training and five years continuous experience must submit official documentation of the following with the application for partial exemption:

1. Completion of previous bail enforcement agent training, which has been approved by the department and which meets or exceeds the compulsory minimum training standards promulgated by the board; and
2. Five years continuous experience in bail recovery, provided such experience did not end more than 12 months prior to submittal of licensure application.

6VAC20-260-160. In-service alternative training credit.

Persons who have completed training that meets or exceeds the compulsory minimum training standards promulgated by the board for the in-service training required for bail enforcement agents may be authorized credit for such training, provided the training has been completed within 12 months of the expiration date of the license period during which in-service training is required. Such training must be provided by a third party organization offering services or expertise for the particular training category. Official documentation of the following must accompany the application for in-service training credit:

1. Information regarding the sponsoring organization, including documentation regarding the instructor for each session;
2. An outline of the training session material, including the dates, times and specific subject matter;
3. Proof of attendance and successful completion; and
4. The applicable, nonrefundable application fee.

6VAC20-260-170. Prior firearms training exemption.

Persons having previous department-approved firearms training may be authorized credit for such training that meets or exceeds the compulsory minimum training standards for private security services business personnel, provided such training has been completed within the 12 months preceding the date of application. Official documentation of the following must accompany the application for partial in-service training credit:

1. Completion of department-approved firearms training; and

2. Qualification at a Virginia criminal justice agency, academy or correctional department.

6VAC20-260-180. Renewal extension.

A. An extension of the time period to meet in-service training requirements for renewal of a license may be approved only under specific circumstances that do not allow bail enforcement agents to complete the required renewal procedures within the prescribed time period. The following are the only circumstances for which extensions may be granted:

1. Extended illness.

2. Extended injury, or

3. Military deployment.

B. A request for extension shall:

1. Be submitted in writing, dated and signed by the licensee prior to the expiration date of the time limit required for completion of the requirements. This requirement may be waived by the department in cases of military deployment;

2. Indicate the projected date the person will be able to comply with the requirements; and

3. Include a copy of the physician's record of the injury or illness or a copy of the government orders.

C. No extension will be approved for licenses that have expired except in the cases involving military deployment.

D. Applications for additional extensions may be approved upon written request of the licensee.

E. Approved extensions may only be granted for a period not to exceed 12 months.

F. The bail enforcement agent shall be nonoperational during the period of extension.

Article 2

Firearms Training Requirements

6VAC20-260-190. General firearms training requirements.

Firearms training endorsement is required for all bail enforcement agents who carry or have access to a firearm while on duty. Each person who carries or has access to firearms while on duty shall qualify with each type of action and caliber of firearm to which he has access.

6VAC20-260-200. Firearms (handgun/shotgun) entry-level training.

All armed bail enforcement agents must satisfactorily complete the firearms classroom training, practical exercises and range training as prescribed in 6VAC20-171, Regulations Relating to Private Security Services, for handgun and for shotgun, if applicable, prior to the issuance of the firearms endorsement.

6VAC20-260-210. Firearms (handgun/shotgun) retraining.

On an annual basis all armed bail enforcement agents must requalify for a firearms endorsement by satisfactorily completing firearms classroom training, practical exercises and range training as prescribed in 6VAC20-171, Regulations Relating to Private Security Services, for handgun and for shotgun, if applicable.

Article 3

Training Sessions

6VAC20-260-220. Bail enforcement and firearms training sessions.

A. Training sessions will be conducted by private security services training schools certified or licensed under 6VAC20-171, Regulations Relating to Private Security Services, in accordance with requirements established in this chapter. Adherence to the administrative requirements, attendance and standards of conduct are the responsibility of the training school, training school director and instructor of the training session.

B. Administrative requirements.

1. In a manner approved by the department, a notification to conduct a training session shall be publicly accessible and submitted to the department upon request. All notifications shall be posted no less than seven calendar days prior to the beginning of each training session to include the date, time, instructors and location of the training session. The department may allow a session to be conducted with less than seven calendar days of notification with prior approval. A notification to conduct a training session shall be deemed to be in compliance unless the training school director is notified by the department to the contrary.
2. Notification of any changes to the dates, times, location or cancellation of a future training session must be made at least 24 hours in advance of the scheduled starting time of the class. In the event that a session must be cancelled on the scheduled date, the department must be notified immediately.
3. On a form provided by the department, the training school director shall issue an original training completion form and training certificate to each student who

satisfactorily completes a training session no later than five business days following the training completion date.

4. In a manner approved by the department, the training school director shall maintain an original training completion roster and submit to the department upon request, affirming each student's successful completion of the session.

5. A written examination shall be administered at the conclusion of each entry-level training session. The examination shall be based on the applicable learning objectives. The student must attain a minimum grade of 70% for all entry-level training examinations to satisfactorily complete the training session.

6. Firearms classroom training shall be separately tested and graded. Individuals must achieve a minimum score of 70% on the firearms classroom training examination.

7. Failure to achieve a minimum score of 70% on the firearms classroom written examination will exclude the individual from the firearms range training.

8. To successfully complete the firearms range training, the individual must achieve a minimum qualification score of 75% of the scoring value of the target.

9. To successfully complete the bail enforcement agent entry-level training session, the individual must:

a. Successfully complete each of the three graded practical exercises required, and

b. Pass the written examination with a minimum score of 70%.

C. Attendance.

1. Individuals enrolled in an approved training session are required to be present for the hours required for each training session unless they have been granted a partial exemption to training from the department.

2. Tardiness and absenteeism will not be permitted. Individuals violating these provisions will be required to make up any training missed. Such training must be completed within 60 days after the completion of the training session or at the next available session offered by the training school. Individuals not completing the required training within this period are required to complete the entire training session.

3. Individuals who do not successfully complete the compulsory minimum training standards of the training session shall not be reported to the department except where required pursuant to this chapter.

4. Each individual attending an approved training session shall comply with the regulations promulgated by the board and any other rules within the authority of the training school. If the training school director or instructor considers a violation of the rules detrimental to the training of other students or to involve cheating on examinations, the training school director or instructor may expel the individual from the school. Notification of such action shall immediately be reported to the employing firms and the department.

D. Standards of conduct.

1. The training school, training school director and instructor shall at all times conform to the application requirements, administrative requirements and standards of conduct established for certification as a training school and instructor.

2. Training sessions will be conducted by certified instructors or other individuals authorized to provide instruction pursuant to this chapter.

3. Training sessions will be conducted utilizing lesson plans developed, including at a minimum the compulsory minimum training standards established pursuant to this chapter.

4. Instruction shall be provided in no less than 50-minute classes.

5. Training sessions may not exceed nine hours of classroom instruction per day. Range qualification and practical exercises shall not be considered classroom instruction; however, total training, including the maximum allotment of nine hours classroom instruction and applicable range qualification and practical exercises, shall not exceed 12 hours per day. This does not include time allotted for breaks, meals and testing.

6. All audiovisual training aids must be accompanied by a period of instruction where the instructor reviews the content of the presentation and the students are provided the opportunity to ask questions regarding the content.

7. A training session must adhere to the minimum compulsory training standards and must be presented in its entirety. Training school directors may require additional hours of instruction, testing or evaluation procedures.

8. A training session must provide accurate and current information to the students.

9. Mandated training conducted not in accordance with the Code of Virginia and this chapter is null and void.

10. A duplicate set of instructor course materials including all student materials shall be made available to any department inspector during the training session, if requested.

Part V

Recordkeeping Standards and Reporting Requirements

6VAC20-260-230. Reporting standards and requirements.

A. Each licensed bail enforcement agent shall report within 30 calendar days to the department any change in his residence, name, or business name or business address, and ensure that the department has the names and fictitious names of all companies under which he carries out his bail recovery business.

B. Each licensed bail enforcement agent arrested or issued a summons for any crime shall report such fact within 30 calendar days to the department and shall report to the department within 30 days the facts and circumstances regarding the final disposition of his case.

C. Each licensed bail enforcement agent shall report to the department within 30 calendar days of the final disposition any administrative action taken against him by another governmental agency in this Commonwealth or in another jurisdiction. Such report shall include a copy of the order, consent to order or other relevant legal documents.

D. Each licensed bail enforcement agent shall report to the department within 24 hours any event in which he discharges a firearm during the course of his duties.

E. The bail enforcement agent shall retain, for a minimum of three calendar years from the date of a recovery, copies of all written documentation in connection with the recovery of a bailee pursuant to 6VAC20-260-260.

Part VI

Administrative Requirements; Standards of Conduct

6VAC20-260-240. General requirements.

All bail enforcement agents are required to maintain administrative requirements and standards of conduct as determined by the Code of Virginia, department guidelines and this regulation.

6VAC20-260-250. Professional conduct standards; grounds for disciplinary actions.

A. Any violations of the restrictions or standards under the Code of Virginia or this regulation shall be grounds for placing on probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail enforcement agent's license. A licensed bail enforcement agent is responsible for ensuring that his employees, partners and individuals contracted to perform services for or on his behalf comply with all of these provisions and do not violate any of the restrictions that apply to bail enforcement agents. Violations by a bail enforcement agent's employee, partner, or agent may be grounds for disciplinary action against the bail enforcement agent, including probation, suspension or revocation of license.

B. A licensed bail enforcement agent shall not:

1. Engage in any fraud or willful misrepresentation, or provide materially incorrect, misleading, incomplete or untrue information in applying for an original license or renewal of an existing license, or in submitting any documents to the department.

2. Use any letterhead, advertising, or other printed matter in any manner representing that he is an agent, employee, or instrumentality of the federal government, a state, or any political subdivision of a state.

3. Impersonate, permit or aid and abet any employee to impersonate a law-enforcement officer or employee of the United States, any state, or a political subdivision of a state.

4. Use a name different from that under which he is currently licensed for any advertising, solicitation, or contract to secure business unless the name is an authorized fictitious name.

5. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person to induce that person to commit any crime.

6. Give or receive, directly or indirectly, any gift of any kind to any nonelected public official or any employee of a governmental agency involved with the administration of justice, including but not limited to law-enforcement personnel, magistrates, judges, jail employees, and attorneys. De minimis gifts, not to exceed \$50 per year per recipient, are acceptable provided the purpose of the gift is not to directly solicit business or would otherwise be a violation of department regulations or the laws of the Commonwealth.

7. Knowingly violate, advise, encourage, or assist in the violation of any statute, local jurisdictional law, court order, or injunction in the course of conducting activities regulated under this chapter.

8. Solicit business for an attorney in return for compensation.

9. Willfully neglect to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance

with the agreement of the parties, but if the bail enforcement agent chooses to withdraw from the case and returns the funds for work not yet done, no violation of this section exists.

10. Fail to comply with any of the statutory or regulatory requirements governing licensed bail enforcement agents.

11. Fail or refuse to cooperate with any investigation by the department.

12. Fail to comply with any subpoena issued by the department.

13. Employ or contract with any unlicensed or improperly licensed person or agency to conduct activities pertaining to bail enforcement services regulated in the Code of Virginia or this regulation, if the licensure status was known or could have been ascertained by reasonable inquiry.

14. Solicit or receive a bribe or other consideration in exchange for failing to recover or detain a bailee.

15. Provide false or misleading information to representatives of the department.

C. The department shall have the authority to place on probation, suspend or revoke a bail enforcement agent's license if an agent is arrested or issued a summons for a criminal offense, or becomes the subject of a protective order.

6VAC20-260-260. Recovery of bailees; methods of capture; standards and requirements; limitations.

A. During the recovery of a bailee, a bail enforcement agent shall have a copy of the relevant recognizance for the bailee. He shall also have written authorization from the bailee's bondsman, obtained prior to effecting the capture. The department shall develop the written authorization form to be used in such circumstances.

B. A bail enforcement agent shall not enter a residential structure without first verbally notifying the occupants who are present at the time of the entry.

C. Absent exigent circumstances, a bail enforcement agent shall give prior notification of at least 24 hours to local law enforcement or state police of the intent to apprehend a bailee. In all cases, a bail enforcement agent shall inform local law enforcement within 60 minutes of capturing a bailee.

D. In the apprehension of a bailee, the bail enforcement agent shall provide a written inventory of items taken into possession to both the bailee as well as the legal detainment facility.

E. A bail enforcement agent shall not utilize a canine or security rifle in the performance of bail recovery.

F. A bail enforcement agent may not transfer a bailee to an unlicensed bail bondsman or bail enforcement agent within the Commonwealth of Virginia.

G. A bail enforcement agent shall not break any laws of the Commonwealth in the act of apprehending a bailee.

H. A bail enforcement agent shall adhere to the recovery requirements pursuant to § 19.2-149 of the Code of Virginia.

I. A bail enforcement agent must complete and maintain the information on the recovery of a bailee on a form prescribed by the department.

6VAC20-260-270. Uniforms and identification; standards and restrictions.

A. A bail enforcement agent shall not wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies he is an agent of state, local, or federal government.

B. A bail enforcement agent shall wear or display only identification issued by, or whose design has been approved by, the department.

Part VII

Complaints, Department Actions, Adjudication

Article 1

Complaints

6VAC20-260-280. Submittal requirements.

A. Any aggrieved or interested person may file a complaint against any person whose conduct and activities are regulated or required to be regulated by the board. The complaint must allege a violation of the law governing bail enforcement services or this regulation.

B. Complaints may be submitted:

1. In writing, or on a form provided by the department, by a signed complainant;
2. In writing, submitted anonymously, that provide sufficient detailed information for the department to conduct an investigation; or
3. Telephonically, providing the complaint alleges activities that constitute a life-threatening situation, have resulted in personal injury or loss to the public or to a consumer, or may result in imminent harm or personal injury, and that provide sufficient detailed information for the department to conduct an investigation.

6VAC20-260-290. Department investigation.

A. The department may initiate or conduct an investigation based on any information received or action taken by the department to determine compliance with the Code of Virginia and this regulation.

B. Documentation.

1. Persons regulated or required to be regulated by this regulation pursuant to the Code of Virginia are required to provide department investigators with any and all records required to be maintained by this regulation.

a. This shall not be construed to authorize the department to demand records protected under applicable federal and state laws. If such records are necessary to complete an investigation, the department may seek a subpoena to satisfy the request.

b. The department shall endeavor to review, and request as necessary, only those records required to verify alleged violations of compliance with the Code of Virginia and this regulation.

2. The department shall endeavor to keep any documentation, evidence or information on an investigation confidential until such time as adjudication has been completed, at which time information may be released upon request pursuant to applicable federal and state laws, rules or regulations.

Article 2

Department Actions

6VAC20-260-300. Penalties: criminal and monetary.

A. Any person who engages in bail recovery in the Commonwealth without a valid license issued by the department is guilty of a Class 1 misdemeanor. A third conviction under this section is a Class 6 felony.

B. Any person who violates any statute or board regulation who is not criminally prosecuted shall be subject to the monetary penalty provided in this section. If the board determines that a respondent is guilty of the violation complained of, the board shall

determine the amount of the monetary penalty for the violation, which shall not exceed \$2,500 for each violation. The penalty may be sued for and recovered in the name of the Commonwealth.

6VAC20-260-310. Disciplinary action; sanctions; publication of records.

A. Each person subject to jurisdiction of this regulation who violates any statute or regulation pertaining to bail enforcement services shall be subject to sanctions imposed by the department regardless of criminal prosecution.

B. The department may impose any of the following sanctions, singly or in combination, when it finds the respondent in violation or in noncompliance of the Code of Virginia or of this regulation:

1. Letter of reprimand or censure;

2. Probation for any period of time;

3. Suspension of license or approval granted, for any period of time;

4. Revocation;

5. Refusal to issue or renew a license or approval;

6. Fine not to exceed \$2,500 per violation as long as the respondent was not criminally prosecuted; or

7. Remedial training.

C. The department may conduct hearings and issue cease and desist orders to persons who engage in activities prohibited by this regulation but do not hold a valid license, certification or registration. Any person in violation of a cease and desist order entered by the department shall be subject to all of the remedies provided by law and, in addition, shall be subject to a civil penalty payable to the party injured by the violation.

D. The director (chief administrative officer of the department) may summarily suspend a license under this regulation without a hearing, simultaneously with the filing of a formal complaint and notice for a hearing, if the director finds that the continued operations of the licensee would constitute a life-threatening situation, or has resulted in personal injury or loss to the public or to a consumer, or which may result in imminent harm, personal injury or loss.

E. All proceedings pursuant to this section are matters of public record and shall be preserved. The department may publish a list of the names and addresses of all licensees whose conduct and activities are subject to this regulation and have been sanctioned or denied licensure or approval.

6VAC20-260-320. Fines: administrative and investigative costs.

The department may recover costs of any investigation and adjudication of any violations of the Code of Virginia or regulations that result in a sanction, including fine, probation, suspension, revocation or denial of any license. Such costs shall be in addition to any monetary penalty that may be imposed.

Article 3

Adjudication

6VAC20-260-330. Hearing process.

Following a preliminary investigative process, the department may initiate action to resolve the complaint through an informal fact-finding conference or formal hearing as established in this regulation. Pursuant to the authority conferred in § 9.1-141 C 6 of the Code of Virginia and in accordance with the procedures set forth by the Administrative Process Act and the procedures prescribed in this regulation, the department is empowered to receive, review, investigate and adjudicate complaints concerning the

conduct of any person whose activities are regulated by the board. The board will hear and act upon appeals arising from decisions made by the director. In all case decisions, the Criminal Justice Services Board shall be the final agency authority.

6VAC20-260-340. Informal fact-finding conference.

The purpose of an informal fact-finding conference is to resolve allegations through informal consultation and negotiation. Informal fact-finding conferences shall be conducted in accordance with § 2.2-4019 of the Code of Virginia. The respondent, the person against whom the complaint is filed, may appeal the decision of an informal fact-finding conference and request a formal hearing, provided that written notification is given to the department within 30 days of the date the informal fact-finding decision notice was served, or the date it was mailed to the respondent, whichever occurred first. In the event the informal fact-finding decision was served by mail, three days shall be added to that period.

6VAC20-260-350. Formal hearing.

A. Formal hearing proceedings may be initiated in any case in which the basic laws provide expressly for a case decision or in any case to the extent the informal fact-finding conference has not been conducted or an appeal thereto has been timely received. Formal hearings shall be conducted in accordance with § 2.2-4020 of the Code of Virginia. The findings and decision of the director resulting from a formal hearing may be appealed to the board.

B. After a formal hearing pursuant to § 2.2-4020 of the Code of Virginia wherein a sanction is imposed to fine, or to suspend, revoke or deny issuance or renewal of any license or approval, the department may assess the holder thereof the cost of conducting such hearing when the department has final authority to grant such license.

registration, certification or approval, unless the department determines that the offense was inadvertent or done in good faith belief that such act did not violate a statute or regulation. The cost shall be limited to (i) the reasonable hourly rate for the hearing officer and (ii) the actual cost of recording the proceedings. This assessment shall be in addition to any fine imposed by sanctions.

6VAC20-260-360. Appeals.

The findings and the decision of the director may be appealed to the board provided that written notification is given to the attention of the Director, Department of Criminal Justice Services, within 30 days following the date notification of the hearing decision was served or the date it was mailed to the respondent, whichever occurred first. In the event the hearing decision is served by mail, three days shall be added to that period. (Rule 2A:2 of Rules of the Virginia Supreme Court.)

6VAC20-260-370. Court review; appeal of final agency order.

A. The final administrative decision may be appealed pursuant to § 2.2-4026 of the Code of Virginia.

B. Notification shall be given to the attention of the Director, Department of Criminal Justice Services, in writing within 30 days of the date notification of the board decision was served or the date it was mailed to the respondent, whichever occurred first. In the event the board decision was served by mail, three days shall be added to that period. (Rule 2A:2 of Rules of the Virginia Supreme Court.)

C. During all judicial proceedings incidental to such disciplinary action, the sanctions imposed by the board shall remain in effect unless the court issues a stay of the order.

Certification Statement:

I certify that this regulation is full, true, and correctly dated.

_____ (Signature of certifying official)

Name and title of certifying official:_____

Name of agency:_____

Date:_____